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FISCAL IMPACT STATEMENT

LS 6497

BILL NUMBER: HB 1207

NOTE PREPARED: Mar 8, 2004

BILL AMENDED: Mar 4, 2004

SUBJECT: Alcoholic Beverage Matters.

FIRST AUTHOR: Rep. Kuzman

FIRST SPONSOR: Sen. Server

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill contains the following provisions:

(1) It exempts the Alcohol and Tobacco Commission (ATC) from statutes that prevent a state agency from compelling an individual to disclose a Social Security number.

(2) It prohibits the ATC from issuing a beer wholesaler's permit to a person who has not been a bona fide Indiana resident for one year. It provides that the five-year residency requirement for beer wholesalers remains in effect for contracts entered into before July 1, 2004. It prohibits the ATC from issuing a beer wholesaler's permit to a limited liability company, a limited partnership, or a corporation unless at least 60% of the membership interest, partnership interest, or common stock is owned by persons who have been bona fide Indiana residents for one year. It allows the ATC to issue a beer or wine wholesaler's permit to a corporation, limited liability company, or limited partnership if no stockholder or person having an interest is a resident of the county in which the licensed premises is to be situated.

(3) It allows the holder of a retailer's permit to have an interest in a brewer's permit of a brewery that manufactures not more than 20,000 barrels in a calendar year.

(4) It allows a microbrewer to sell beer by the glass at a brewery if the microbrewer furnishes the minimum food requirements prescribed by the ATC.

(5) It provides that the holder of a beer, wine, and liquor retailer permit may allow the self-service of alcoholic beverages in a suite of a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a paved automobile racetrack more than two miles in length, or a convention center.

(6) It increases the attendance and duration of an event at which the holder of an excursion and adjacent landsite permit provides free alcoholic beverages.

(7) It provides that if an applicant for an alcoholic beverage permit for a restaurant in a municipal riverfront development project already holds a three-way permit for the premises, the applicant is not eligible for the special permit. It specifies the criteria that an applicant must demonstrate in applying for a special permit in a municipal riverfront development project.

(8) It allows a supplemental retailer to sell alcoholic beverages on Sunday from 10:00 a.m. to 12:30 a.m.

(9) It allows a beer, wine, or liquor wholesaler to obtain a deduction for the redevelopment or rehabilitation of real property in areas designated as economic revitalization areas.

(10) It eliminates Indiana residency requirements of members or partners of a partnership or limited liability company that holds a brewery permit and operates a microbrewery.

(11) It exempts a licensed premises owned or operated by an educational institution of higher learning or an automobile racetrack from provisions imposing criminal or civil liability for the presence of a minor in a public place where alcoholic beverages are sold.

(12) It repeals a statute that prohibits a corporation that does business in Indiana from enabling a nonresident of Indiana to control or acquire an interest in a beer wholesaler's permit.

(13) It allows a liquor retailer or a package liquor store to provide samples of beer that do not exceed six ounces.

The bill also makes conforming amendments.

Effective Date: Upon passage; July 1, 2004.

Explanation of State Expenditures: *Alcohol and Tobacco Commission:* While the provisions of the bill may require the ATC to evaluate and conform its current permitting procedure, it is not expected to have a significant impact on the Commission.

(11) This provision could potentially cause a slight reduction in the number of court cases and penalties assessed against the affected permit holders. If there are fewer actions brought, court fee revenue would decrease. A portion of the court fees are deposited in the state General Fund. Additionally, depending on the number of potential violations, fine revenue to the state General Fund and the Common School Fund could be reduced. The maximum fine for a Class C infraction and Class C misdemeanor is \$500. The maximum fine for a Class B misdemeanor is \$1,000.

Explanation of State Revenues: (4) This provision could cause a slight increase in the revenue received from the state excise tax on beer. Any increase is estimated to be minimal.

The \$0.115 per gallon beer excise tax is based on the number of gallons sold and is distributed to the following funds: state General Fund (\$0.04), the Post War Construction Fund (\$0.0475), the ATC Enforcement and Administration Fund (\$0.0075), and the Addiction Services Fund (\$0.02). The state retains 50% of the General Fund distribution of beer excise tax revenue. The remainder is distributed to cities and towns based on population.

There are currently 21 licensed microbreweries in Indiana. A number of these breweries have attached restaurants and accompanying ATC permits that allow them to sell beer by the glass. The bill requires a microbrewer to furnish the minimum food requirement prescribed by the ATC in order to sell beer by the glass at the brewery. None of the microbreweries are currently permitted to sell beer for carryout on Sundays.

(8) The bill allows consumers to purchase alcoholic beverages for on-premises consumption at bars, restaurants, and hotels that have a supplemental retailer permit on Sundays from 10:00 a.m. until 12:30 a.m. on Monday.

While it is assumed that the majority of consumers purchase all the alcoholic beverages they desire to consume within the hours dictated by current law, it is possible that the added convenience and availability of alcohol sales on Sunday mornings may encourage consumers to purchase more alcoholic beverages than they would have otherwise. An increase in the overall quantity of alcoholic beverages purchased would increase state revenue from the excise taxes assessed on alcoholic beverages. The extent to which consumers may make additional purchases above what would be purchased under current law is unknown.

Any impact on Sales Tax revenue is expected to be minimal since any additional purchases of alcohol would likely reduce consumer spending on other sales taxable items.

Under current law, restaurants, bars, and other establishments are generally limited to selling alcoholic beverages Monday through Saturday, from 7:00 a.m. until 3:00 a.m. the following day, unless they meet certain requirements and have obtained a supplemental permit issued by the Commission. There are approximately 4,050 establishments that have a supplemental permit to serve alcoholic beverages on Sunday. Restaurants and bars with the permit may serve alcoholic beverages from noon on Sunday until 12:30 a.m. on Monday, while hotels with a permit may serve from 11:00 a.m. on Sunday until 12:30 a.m. on Monday.

Background on Alcoholic Beverage Excise Tax Revenue: Based on the January 12, 2004, State Revenue Forecast, excise taxes on alcoholic beverages are expected to generate \$36.1 M in FY 2005 and \$36.0 M in FY 2006. The excise taxes on alcoholic beverages are assessed on a per gallon basis, and the taxes are typically collected at the wholesale level. The excise taxes collected on alcoholic beverages vary by product and by the fund to which the tax is dedicated. Revenue from alcoholic beverage excise taxes is distributed into the state General Fund, the Post War Construction Fund, the Pension Relief Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund.

(9) The state levies a one cent tax rate for State Fair and State Forestry. Any reduction in the assessed value base will reduce the property tax revenue for these two funds.

Explanation of Local Expenditures:

Explanation of Local Revenues: (11) If fewer court actions are filed, local governments would receive less court fee revenue.

(9) This bill removes the prohibition against beer, wine, and liquor wholesalers from receiving a property tax abatement for the redevelopment or rehabilitation of real property in areas designated as economic revitalization areas (ERA).

The Alcohol and Tobacco Commission (ATC) reports that it has issued permits for 26 wine wholesalers, 10 liquor wholesalers, and 46 beer wholesalers. However, data is unavailable relating to the potential future

investment in real property by wholesalers in ERAs. If a wholesaler located in an ERA qualifies for the abatement and redevelops real property, the abatement would reduce any increase in the assessed value tax base and cause a shift of the property tax burden from the wholesaler receiving the exemption to all property taxpayers in the form of an increased tax rate. However, if the provision encourages wholesalers to redevelop and rehabilitate real property that would not have been improved absent this bill, the assessed value tax base will increase after the abatement period and potentially reduce the property tax burden of other taxpayers.

As an abated value is gradually placed on the tax rolls, part of the property tax burden is shifted from all taxpayers to the owners of the abated property in the form of a reduced tax rate. The designating bodies of the ERA may allow a wholesaler to receive an abatement for up to ten years.

Total local revenues, except for cumulative funds, would remain unchanged. The revenue for cumulative funds would be reduced by the product of the fund rate multiplied by the deduction amount applicable to that fund.

This bill applies to property taxes due and payable beginning January 1, 2005.

Background on Alcoholic Beverage Excise Tax Revenue: Fifty percent of the revenue from the excise tax on alcoholic beverages distributed to the state General Fund is set aside for state General Fund purposes, and 50% is allocated to cities and towns based on population.

State Agencies Affected: Alcohol and Tobacco Commission; Department of Local Government Finance.

Local Agencies Affected: Civil taxing units and school districts with economic revitalization areas.

Information Sources: Alcohol and Tobacco Commission.

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